Criminal Revision No.823 of 1993.

IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

...

Date of Decision November 28 , 2007.

Kaur Singh **...** Petitioner

VERSUS

State of Punjab **...**Respondent

1. Whether the Reporters of Local Newspapers may be allowed to see the judgment ?

2. To be referred to the Reporters or not ?

3. Whether the judgment should be reported in the Digest ?

CORAM :

HON'BLE MR. JUSTICE MOHINDER PAL.

Present: Mr. A.P.S. Deol, Senior Advocate, with
Mr. Daldeep Singh, Advocate,
for the petitioner.

Mr.P.S.Grewal, Assistant Advocate General, Punjab.

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MOHINDER PAL, J.

Petitioner faced trial under Section 9 of the Opium Act

(hereinafter referred to as `the Act') after he was apprehended on November 18, 1984, on the basis of suspicion and on conducting his search opium weighing five kilograms, which was wrapped in a glazed paper, was recovered from the `Jhola' carried by the petitioner in his right hand. He was convicted under Section 9 of the Act and sentenced to undergo rigorous imprisonment for two years and to pay fine of Rs.200/-and in default thereof to undergo further rigorous imprisonment for two months. His appeal was dismissed by the lower appellate Court. Hence this revision petition.

2. Learned counsel for the petitioner does not challenge his conviction. He, however, submitted that the recovery was effected from the petitioner on November 18, 1984. The petitioner was 25 years old at that time. After a protracted trial, the petitioner was sentenced on December 14, 1991, by the trial Court and his appeal was dismissed by the lower appellate Court on October 19, 1993, when he was ordered to be taken into custody. He was ordered to be released on bail by this Court on December 14, 1993, when this revision petition was admitted for hearing. Learned counsel prayed that keeping in view the fact that Sword of Damocles remained hanging over his head for more than twenty three years, lenient view may be taken against the petitioner and that the impugned sentence order may be modified. He also relied upon the cases of **Wakil Chand v. State of Punjab, 1997 Criminal Law Journal 1743**

and Pal Singh v. State of Punjab, 1996 Criminal Law Journal 3308, where under similar circumstances, the accused were ordered to be released on probation of good conduct.

3. After considering the submissions made by learned counsel for the petitioner and taking into account the fact that the accused has already undergone incarceration for three months and four days, as an under-trial and after conviction, as per custody certificate which has been produced in Court today, I think no useful purpose will be served in sending the petitioner to prison again at this stage and ends of justice will be adequately met if he is ordered to be released on probation.

4. Consequently, conviction of the petitioner under Section 9 of the Act is maintained. Instead of sending the petitioner to jail, he is ordered to be released on probation for a period of one year. He should furnish personal bond in the sum of Rs.20.000/- with one surety of the like amount to the satisfaction of the Chief Judicial Magistrate, Bhatinda, undertaking to appear and receive sentence when called upon to do so during this period and, in the meantime, to maintain peace and be of good behaviour. The said bonds will be furnished within a period of two months of the receipt of a copy of this order. The sentence of fine and default clause shall remain unaltered. Needless to say, if the petitioner fails furnish the requisite bonds, as afore-stated, this revision petition shall be deemed to have been dismissed.

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5. The impugned sentence order stands modified to the extent indicated above.

6. This revision petition stands disposed of accordingly.

November 28 , 2007. **(MOHINDER PAL)**
ak **JUDGE**